



**U.S. Customs and
Border Protection**

SEP 23 2011

The Honorable Jeff Sessions
United States Senate
341 Vance Federal Building
1800 Fifth Avenue North
Birmingham, AL 35203-2171

Dear Senator Sessions:

Thank you for your June 27, 2011 letter on behalf of your constituents, Mr. (b) (6), (b) (7)(C) and Ms. (b) (6), (b) (7)(C) regarding the difficulties Mr. (b) (6), (b) (7)(C) experienced when processing through U.S. Customs and Border Protection (CBP).

A review of CBP records confirmed that Mr. Morris arrived at the Hartsfield-Jackson Atlanta International Airport in Atlanta, Georgia, on May 25, 2011 and sought admission as a temporary visitor for pleasure under the terms of the Visa Waiver Program (VWP). As a result of routine records checks, CBP officers determined that Mr. (b) (6), (b) (7)(C) had recently spent a considerable amount of time in the United States as a temporary visitor. A review of Mr. (b) (6), (b) (7)(C) travel history indicated that since July 20, 2010 he traveled to the United States on four occasions and spent 262 days out of a total of 309 days, or approximately 85 percent of his time, in this country as a temporary visitor. Mr. (b) (6), (b) (7)(C) was referred to the secondary processing area for further inquiry.

Mr. (b) (6), (b) (7)(C) claimed that the purpose of his travel was to visit friends and family. When CBP officers asked Mr. (b) (6), (b) (7)(C) what family members he had in the United States, he replied that he had found family on a previous trip. CBP officers conducted a search of Mr. (b) (6), (b) (7)(C) baggage and found evidence that he had recently been on a honeymoon in Hawaii and officers learned that his wife was a citizen and resident of the United States. CBP officers also found documents that indicated Mr. (b) (6), (b) (7)(C) affiliation with a religious organization, Shake The Nations. CBP officers found cards bearing the message "All DVDs \$15; Make all checks payable to Shake The Nations." Mr. (b) (6), (b) (7)(C) stated that Shake The Nations was a charity registered in the United Kingdom. CBP officers queried the Internet for references to Shake The Nations and learned that Mr. (b) (6), (b) (7)(C) was the founder of the organization. Additional inquiries revealed that on March 14, 2011, Shake The Nations received a State of Alabama non-profit certificate of incorporation. When asked about his activities in the United States over the past ten months, Mr. Morris replied that he had been setting up an American charity.

Under U.S. Immigration law, an applicant for admission is presumed to be an intending immigrant and bears the burden of proof to establish his/her eligibility to enter the United States. Applicants must demonstrate that they have sufficiently strong family, social, or economic ties to their place of residence to ensure that their projected stay in the United States will be temporary. "Ties" are the various aspects of a person's life that bind him/her to a country or residence, such as a person's job, income, house or apartment, car, close family relationships, and bank accounts. Each applicant has the burden of proof to establish to a CBP officer's satisfaction that such ties exist. Due to the differences of each applicant's circumstances and the need for travel, it is suggested that applicants carry appropriate documents to demonstrate their individual circumstances.

In this instance, Mr. (b) (6), (b) (7)(C) was unable to overcome the presumption that he was an intending immigrant and his application for admission was denied. Mr. (b) (6), (b) (7)(C) was processed for removal as a refusal under the VWP. As a result of this refusal, Mr. (b) (6), (b) (7)(C) is no longer eligible to enter the United States under the VWP, and he must have a valid visa whenever seeking admission in the future. The U.S. Department of State (DOS) determines an individual's eligibility for a visa. Mr. (b) (6), (b) (7)(C) may wish to consult with DOS officials at his local U.S. Embassy or Consulate for advice concerning his eligibility for a visa and any visa options. For information concerning immigrant and nonimmigrant visas, Mr. (b) (6), (b) (7)(C) may view the DOS website at travel.state.gov. If Mr. (b) (6), (b) (7)(C) wishes to immigrate to the United States, he will find the necessary forms and filing instructions on the U.S. Citizenship and Immigration Services website at www.uscis.gov.

Finally, we noted that Mr. (b) (6), (b) (7)(C) had concerns regarding the conduct of the examining CBP officers. Please allow me to express regret for any conduct that may have been perceived as rude or unprofessional during CBP processing. CBP takes allegations of employee misconduct very seriously and has instituted policies pertaining to abuses of authority. Complaints of unprofessional conduct are recorded, investigated, and appropriate action is taken against CBP officers that are found to have violated policy. However, the Privacy Act prohibits any disclosure of discipline towards CBP personnel.

I appreciate your interest in U.S. Customs and Border Protection. If we may offer further assistance, please contact me at (202) 344-1760.

Sincerely,

(b) (6), (b) (7)(C)

Assistant Commissioner
Office of Congressional Affairs